

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15087 of John and Maryann F. Dean, pursuant to 11 DCMR 3107.2, for a variance to allow a subdivision creating a lot which does not meet the rear yard and lot area requirements (Sub-section 101.6), a variance from the rear yard requirements (Sub-section 404.1), and a variance from the lot area requirements (Sub-section 401.1) for a proposed subdivision of a lot with an existing detached dwelling in an R-1-B District at premises 1331 Locust Street, N.W., (Square 2771, Lot 802 and Parcel 91/143).

HEARING DATE: June 21, 1989
DECISION DATE: July 28, 1989

FINDINGS OF FACT:

1. The subject site comprises two lots, one facing Locust Road and the other facing Fernway Road, N.W. The site is known as premises 1331 Locust Street, N.W., located in an R-1-B District.
2. The area is developed with detached single-family dwellings which are well maintained. The predominant character of the area is residential.
3. The site comprising two lots, is irregular in shape. Lot 802 (1331 Locust Road) which is developed with a single-family dwelling unit has a narrow driveway strip extending up to Fernway Road and contains a lot area of 4,672 square feet. The other lot (parcel 91/143) is vacant and faces Fernway Road exclusively and contains an area of 4,590 square feet.
4. The applicant proposes to resubdivide these two lots so that Lot 802 would front exclusively on Locust Road. This would reconfigure the developed lot into a rectangle and increase the lot area of the vacant lot from 4,590 square feet to 5,123 square feet. The lot area would, therefore, conform to the minimum requirement of a 5,000 square foot lot area. Lot 802, on the other hand, would measure 4,139.3 square feet, 860.7 square feet less than the 5,000 square feet required.
5. The existing dwelling on Lot 802 is situated so that the side yards are only 5 feet instead of the required

8 feet in width. The rear yard is 13 feet instead of the required 25 feet.

6. The applicants entered into a contract to sell parcel 91/143 to their adjoining neighbor in August of 1988. At that time the neighbor indicated to the applicants that she planned to leave the property vacant. The applicants testified that the resubdivision and sale of the property will not adversely affect the public.

7. The applicants testified that subject lots were created in the late 1920's or early 1930's. Their dwelling is the second oldest house in the neighborhood, with Shephard Mansion being the oldest. The neighborhood was built up around these two properties. The applicants further testified that these lots are considerably larger than surrounding lots.

8. The applicants maintain that if the buyer decides to build on the property, it will not adversely affect her or the other neighbors because the house would be situated on the property in a manner consistent with the layout of the other houses in the neighborhood.

9. The Office of Planning (OP), by memorandum dated June 13, 1989 and through testimony at the hearing, recommended that the application be approved. OP noted the irregular shape of the subject site and the fact that the proposed resubdivision would make one of the lots conforming. OP believes that the required area variances are minor and that the proposal improves the configuration of the existing lots. The Board concurs with opinion of the Office of Planning.

10. Advisory Neighborhood Commission (ANC) 4A expressed opposition to the application. The ANC testified that the community was concerned that:

- a. The sale of a part of the rear lot would give the buyer the statutorily required area to build additional structures, and
- b. The buyer might squeeze additional structures into a space originally designated for one structure.

The ANC suggested that the applicants convey a little less space to the neighbor so that she will not have the required amount of space to build additional structures.

11. The Board does not concur with the opinion of the ANC. The existing lots are irregular in shape and nonconforming. The proposed subdivision will create a conforming vacant lot which is likely to allow for the

matter-of-right construction of a dwelling consistent with the requirements of the R-1-B District. The remaining lot with the existing house will be re-configured to eliminate the narrow strip that extends to Fernway Road. The existing house was constructed prior to the current Zoning Regulations. The rear lot line common to both lots can not be adjusted to provide the required rear yard for the existing house without adversely affecting the Fernway Road lot.

12. One letter of support was submitted into the record.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicants are seeking area variances to allow a subdivision creating a lot which does not meet the rear yard and lot area requirements. The granting of a variance requires evidence of a practical difficulty upon the owner arising out of some extraordinary or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical condition. The Board further must find that the requested relief can be granted without substantial detriment to the public good and that it will not substantially impair the intent, purpose and integrity of the zone plan.

The Board concludes that the applicants have met the burden of proof established for the requested variances.

The Board concludes that the subject property is unique because of the existing house and the unusual irregular shaped lots. The Board concludes that strict application of the Zoning Regulations regarding the subject property creates a practical difficulty for the owner because neither parcel conforms to the requirements of the Regulations as presently subdivided.

The Board concludes that resubdivision of the subject property will not be of substantial detriment to the public good.

The Board further concludes that the requested relief makes at least one of the lots conforming. It is therefore the opinion of the Board that granting the variances will not substantially impair the intent, purpose and integrity of the Zone plan.

The Board concludes that it has given the ANC the "great weight" to which it is entitled. Accordingly, it is hereby ORDERED that the application is GRANTED.

VOTE: 4-1 (Charles R. Norris, Paula L. Jewell and Carrie L. Thornhill to grant; Lloyd Smith to grant by proxy; William F. McIntosh opposed to the motion).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: DEC 28 1987

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15087order/BHS14

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 15087

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mail to all parties, dated 2 6, and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

John Dean
1331 Locust Road, N.W.
Washington, D.C. 20012

E. Ned Sloan, Chairperson
Advisory Neighborhood Commission 4-A
5804-B Georgia Avenue, N.W.
Washington, D. C. 20011



EDWARD L. CURRY
Executive Director

DATE: 2 6